

## REMARKS

This case has been pending more than 5 years. Please reconsider the rejections. *See, e.g.,* MPEP 707.02 (“Any application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution...*the application is to be considered "special" by the examiner.*”).

### Issue 1: Parsing

Claim 1 includes:

modifying the score for the traversed path by allowing [A] repetition of phonemes and [B] flexible endpoints for phonemes in a path such that at least one of a first arc that ends at a first frame and a second arc that starts at a third frame is extended so that the first arc and the second arc are directly connected at a second frame.

The Office Action (OA) rejects [A] based on Chou because:

modifying the score for the traversed path by allowing repetition of phonemes [element removed by PTO] in a path such that at least one of a first arc that ends at a first frame (head) and a second arc that starts at a third frame (tail) is extended so that the first arc and the second arc are directly connected at a second frame (column 14, lines 1-19 and column 5, lines 9-22), reducing search complexity.

OA, 4. The Office Action (OA) rejects [B] based on Garner because:

Garner discloses a method allowing flexible endpoints (figures 2-3 with column 29, lines 28-65), to provide an efficient dynamic programming matching between the input query and the lattice achieved.

OA, 5. Applicant does not understand why the OA parses claim 1 as it does. In other words, the OA artificially parses [B] in such a way that [B] is not being considered in its proper context.

Please reconsider this rejection and consider [B] in its proper context:

[i] modifying the score for the traversed path by allowing...[ii] flexible endpoints for phonemes [iii] in a path such that at least one of a first arc that ends at a first frame and a second arc that starts at a third frame is extended so that the first arc and the second arc are directly connected at a second frame.

Considering [ii] in light of [i] and [iii] will lead to an accurate assessment of the allowability of [B].

Also, during examination claims are interpreted as broadly as their terms reasonably allow but such an interpretation must be “consistent with the specification.” MPEP 2111. Furthermore, the broadest reasonable interpretation of the claims must be consistent with the interpretation that those skilled in the art would reach. *Id.* The present parsing used in the OA does not comport with Applicant’s published specification ¶32 where a specific example regarding [A] phoneme repetition and another example regarding [B] flexible endpoints are provided. Please read ¶32, as well as the language of the claim itself, and reconsider this rejection.

Because the OA does not show how “modifying the score for the traversed path by allowing...[B] flexible endpoints...such that at least one of a first arc that ends at a first frame and a second arc that starts at a third frame is extended so that the first arc and the second arc are directly connected at a second frame”, the PTO has not met its §103 burden regarding this claim (or any other independent claim) and Applicants request the PTO specifically address this issue in claim 1 in a non-final office action.<sup>1</sup>

#### Issue 2: Garner has no flexible endpoints

Again, Claim 1 includes:

modifying the score for the traversed path by allowing...[B] flexible endpoints for phonemes in a path such that at least one of a first arc that ends at a first frame and a second arc that starts at a third frame is extended so that the first arc and the second arc are directly connected at a second frame.

and again, the OA rejects [B] based on Garner because:

Garner discloses a method allowing flexible endpoints (figures 2-3 with column 29, lines 28-65), to provide an efficient dynamic programming matching between the input query and the lattice achieved.

OA, 5. Generally, Garner discloses a method “for matching two sequences of phonemes both of which may be generated from text or speech.” Abstract. Specifically, Figure 2 concerns a word lattice for a *typed input* that describes a data file such as a picture. 3:65. Figure 3 concerns a word lattice for an *uttered input* that describes the same. 4:18. Word lattices such as those in

---

<sup>1</sup> This omission is a failure to articulate a *prima facie* case of unpatentability and the burden to rebut this “rejection” has not shifted to Applicant. Consequently, a next Office Action rejecting this claim cannot be final since only then would Applicant be obligated to rebut the rejection. *See* MPEP § 706.07(a) (“second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure...”)

Figures 2 and 3 may be generated for two reasons in Garner to: (1) initially annotate the picture when it is stored and then (2) later search for and retrieve those annotated files using typed or spoken input. However, while Garner goes on at length describing different algorithms for matching annotations to search terms [i] there is nothing related to the claimed “flexible endpoints.” Nor is there anything about [ii] “modifying the score” based on such endpoints. Finally, there is certainly nothing in Garner [iii] regarding “modifying the score” based on a “first arc that ends at a first frame and a second arc that starts at a third frame is extended so that the first arc and the second arc are directly connected at a second frame.” *If the Office Action maintains this rejection, please address specifically where in Garner points [i, ii, iii] are found. Furthermore, please identify the “endpoint” in Garner and why Garner shows such an endpoint is “flexible.”* Until this is done, the PTO has not met its §103 burden regarding this claim (or any other independent claim).<sup>2,3</sup> Applicants request the PTO specifically address these issues in a non-final office action.

#### Conclusion

Applicant appreciates the previous interview in this case. As this case approaches a pending period of 7 years, Applicant will happily discuss the matter with the PTO if doing so will end this prosecution.

In view of these remarks, the application is now in condition for allowance and the Examiner’s prompt action in accordance therewith is respectfully requested. Applicant respectfully submits that the independent claims are allowable over any combination of the cited art. Further, the dependent claims are also allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

---

<sup>2</sup> See fn 1.

<sup>3</sup> The OA relies on the logic rejecting claim 1 to reject all other independent claims.

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.

Respectfully submitted,

Date: September 28, 2009

/E.E. "Jack" Richards, II/  
E.E. "Jack" Richards, II  
Registration No. 53,514  
TROP, PRUNER & HU, P.C.  
1616 S. Voss Road, Suite 750  
Houston, Texas 77057-2631  
(512) 418-9944 [Phone]  
(713) 468-8883 [Fax]  
Customer No.: 21906